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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,000	10/31/2003	Takeshi Ishizu	023971-0312	8255

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FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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LOUIS JACQUES, JACQUES H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/697,000

Applicant(s)

ISHIZU ET AL.

Examiner

Jacques H Louis-Jacques

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11, 12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/853,694.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 11-12 and 14 are presented for examination and consideration on the merits.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites, "said command vehicle speed variation determining section determining the correction quantity..." in lines 12-14. However, in lines 5-6, the correction quantity is determined or calculated by a "correction quantity calculating section."

Claim 12 is also rejected based on its dependency.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 11-12 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Tange et al [6,298,298].

Tange et al discloses a vehicle velocity (speed) controlling apparatus and method. According to Tange et al, a command vehicle speed (velocity) variation (difference) determining section calculates a command vehicle speed (velocity) variation (figure 2) on the basis of a deviation between a vehicle speed (velocity, V) and a target vehicle speed (velocity, VT) set by an operator. See columns 5 and 6. Tange et al also discloses a correction quantity section that detects a lateral acceleration YG of the vehicle and calculated a correction quantity according to the lateral acceleration (column 5, lines 57-59). Also, the command vehicle speed (velocity) is calculated by subtracting the correction quantity for a first value calculated from as least one of the target vehicle speed (velocity) set by a vehicle operator and a second value calculated from the vehicle speed and the variation of the command vehicle speed. See column 6. Furthermore, Tange et al discloses that the correction quantity is determined so that the correction quantity becomes smaller as the vehicle speed (velocity) becomes higher. Se column 6, in particular, lines 33-35. See also column 11, lines 16-23.

Tange et al further discloses that the lateral acceleration is calculated from the vehicle and a value obtained by processing one of a steer[ing] angle and a yaw rate. See column 11, in particular, lines 29-58. The correction quantity is calculated according to the lateral acceleration and the correction quantity is varied according the vehicle speed based on a cutoff frequency of filter. See column 4.

6. Claims 11 and 14 are also rejected under 35 U.S.C. 102(e) as being anticipated by Tsutsumi et al [6,175,799].

Tsutsumi et al discloses an apparatus and method for automatically controlling vehicular velocity. According to Tsutsumi et al, a command vehicle speed (velocity) variation (difference) determining section calculates a command vehicle speed (velocity) variation (figure 2) on the basis of a deviation between a vehicle speed (velocity, V) and a target vehicle speed (velocity, VT) set by an operator. See figure 2A, columns 1-2. Tsutsumi et al also discloses a correction quantity section that detects a lateral acceleration YG of the vehicle and calculated a correction quantity according to the lateral acceleration (figure 4 and column 2, lines 5-9 and column 6, lines 12-18). Furthermore, the command vehicle speed (velocity) is calculated by subtracting the correction quantity for a first value calculated from as least one of the target vehicle speed (velocity) set by a vehicle operator and a second value calculated from the vehicle speed and the variation of the command vehicle speed. See columns 2, 7-8. In addition, Tsutsumi et al discloses that the correction quantity is determined so that the correction quantity becomes smaller as the vehicle speed (velocity) becomes higher. Se column 10, in particular, lines 13-21.

*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsumi et al [6,175,799] in view of Tohda et al [5,540,299].

Tsutsumi et al discloses that the lateral acceleration is calculated from the vehicle and a value obtained by processing one of a steering angle and a yaw rate. The correction quantity is calculated according to the lateral acceleration and the correction quantity is varied according the vehicle speed. See column 8, line 54 to column 9, line 12. Although Tsutsumi et al discloses a filter as shown in figure 2B and a model constituted of two low pass filters, Tsutsumi et al does not particular teach that the correction quantity is varied by varying a cutoff frequency of the low-pass filter according to the vehicle speed. Tohda et al, on the other hand, discloses a calculating section for calculating the lateral acceleration from the vehicle speed and a value obtained by processing one of a steer angle and a yaw rate by means of a low-pass filter, calculates the correction quantity according to the lateral acceleration, and varies the correction quantity by varying a cutoff frequency of the low pass filter according to the vehicle speed (e.g., column 17). Thus, it would have been obvious to one skilled in the art at the time of the invention to be motivated to modify the apparatus and method for automatically controlling vehicular velocity of Tsutsumi et al by incorporating the features from the system of Tohda et al

because such modification, as suggested by Tohda et al, would ensure stability of the vehicle.

***Response to Arguments***

9. Applicant's remarks have been fully considered by the examiner.

Applicant noted that the independent claims recites (1) a correction quantity for the vehicle speed based on lateral acceleration of the vehicle and (2) the correction quantity is determined so that the correction quantity becomes smaller as the vehicle speed becomes higher. Emphasis added Applicant then contented that "these recited features are not disclosed or suggested by the applied prior art."

Applicant argued, "Suzuki relates to a chassis dynamometer control system and is not a vehicle speed control system". The examiner disagrees. The patent to Suzuki discloses the claimed limitations. The mere fact that the title of the Suzuki patent relates to a "chassis dynamometer control" and not a "vehicle speed control system", as argued by applicant is not basis to conclude that the patent does disclose the claimed limitations. In fact, as noted in the office action, Suzuki discloses the target speed, the command speed, the deviation or difference between the command speed and the target speed and the correction value for correcting the speed difference or variation.

Applicant further argued that Suzuki "does not disclose calculating a correction value according to a lateral acceleration" and that the correction quantity is determined "so that the correction quantity becomes smaller as the vehicle speed becomes higher." Emphasis added.

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Notwithstanding Applicant's arguments regarding the correction quantity a new ground of rejection has been applied against the claims.

Regarding the 35 USC 103 rejection, Applicant merely stated, "the deficiencies of Suzuki are not cured by Tohda." Such statement is taken as Tohda discloses the limitations used for except for the features lacking in Suzuki.

This office action is made non-final.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,893,243	Tada et al	Jan. 1990
5,901,806	Takahashi	May 1999

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H Louis-Jacques whose telephone number is 703-305-9757. The examiner can normally be reached on M-Th 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

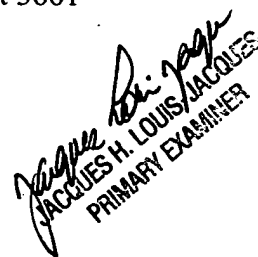


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques  
Primary Examiner  
Art Unit 3661

/jlj

  
JACQUES H. LOUIS-JACQUES  
PRIMARY EXAMINER